

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION)	MDL No. 1456
)	Master File No. 1:01-CV-12257-PBS
)	Sub-Category Case No. 1:08-CV-11200
)	
)	
)	
)	
)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>United States ex rel. Linnette Sun and Greg Hamilton, Relators</i>)	
v.)	
<i>Baxter Hemoglobin Therapeutics and Baxter International, Inc.</i>)	
)	

**[PROPOSED] ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS' MOTION TO DISMISS RELATORS' COMPLAINT**

This Court has considered Defendants' Motion to Dismiss Relators' Complaint and Relators' Opposition, and orders as follows:

1. Counts XX and XXI (the Arkansas and Utah claims) are dismissed;
2. Count XII (the Texas claim) is dismissed;
3. Count XVI (the Nevada claim) is dismissed;
4. Count II (the Stark Act claim) is dismissed;
5. Relators may amend their Complaint to add federal and/or state anti-kickback claims;
6. In all other respects, Defendants' Motion is **Denied**.

Dated: _____

Patti B. Saris
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that I, Mark Kleiman, an attorney, caused a true and correct copy of the foregoing, **[PROPOSED] ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION TO DISMISS RELATORS' COMPLAINT**, to be delivered to all counsel of record by electronic service on September 15, 2009, for the posting and notification to all parties.

By: /s/ Mark Allen Kleiman

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